

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

2015 JUN 22 PM 2: 28

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6891  
COMPLAINT FILED: October 27, 2014  
DATE OF NOTIFICATION: October 30, 2014  
LAST RESPONSE: November 25, 2014  
ACTIVATED: March 24, 2015

ELECTION CYCLE: 2014  
Earliest SOL: October 2, 2019  
Latest SOL: March 27, 2020

**COMPLAINANT:** American Democracy Legal Fund  
**RESPONDENTS:** Beat REID PAC and Steve Rebillot in his official capacity as treasurer  
**RELEVANT STATUTES AND REGULATIONS:** 52 U.S.C. § 30102(e)(4)<sup>1</sup>  
11 C.F.R. § 102.14(a) and (b)(3)  
**INTERNAL REPORTS CHECKED:** Disclosure Reports  
**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The Complaint alleges that Beat REID PAC ("BRP" or the "Committee"), an independent expenditure-only political committee ("IEOPC"), violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by incorporating the name of a federal candidate — Senator Harry Reid — in its own name.<sup>2</sup> The Committee submitted a response denying the allegations and requesting that the matter be dismissed.<sup>3</sup>

<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended, was transferred from Title 2 to new Title 52 of the United States Code.

<sup>2</sup> Compl. at 1.

<sup>3</sup> Resp. at 3-4.

1 Because BRP is an unauthorized committee, it violated the Act by including Senator  
2 Reid's last name as part of its name. As discussed further below, however, the violation has  
3 ceased since the time the Complaint was filed because Senator Reid is no longer a candidate, and  
4 the amount of activity conducted by the Committee was minimal. We recommend, therefore,  
5 that the Commission exercise its prosecutorial discretion and dismiss the Complaint, send a  
6 cautionary letter, and close the file.

## 7 II. FACTUAL AND LEGAL ANALYSIS

### 8 A. Facts

9 BRP registered with the Commission as an IEOPC on October 2, 2014.<sup>4</sup> The  
10 Committee's stated mission is to defeat Senator Harry Reid "once and for all in 2016."<sup>5</sup> Reid  
11 filed a Statement of Candidacy on November 18, 2010, for re-election in 2016.<sup>6</sup>

12 BRP communicated and solicited funds through its website, Facebook Page, and Twitter  
13 account.<sup>7</sup> During 2014, BRP received \$193.00 in contributions, made \$21.87 in disbursements,  
14 and incurred debts totaling \$57,515.00; it reported receiving no contributions and making no  
15 disbursements between January 1 and April 27, 2015.<sup>8</sup>

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<sup>4</sup> See FEC Form 1, Statement of Organization (Oct. 2, 2014).

<sup>5</sup> See BRP's website, <https://www.beatreidpac.com/>; see also BRP's Facebook Page, <https://www.facebook.com/BEATREIDPAC>.

<sup>6</sup> See FEC Form 2, Statement of Candidacy (Nov. 18, 2010).

<sup>7</sup> See BRP's website, <https://www.beatreidpac.com/>; BRP's Facebook Page, <https://www.facebook.com/BEATREIDPAC>; and BRP's Twitter account, [https://twitter.com/beat\\_reid](https://twitter.com/beat_reid).

<sup>8</sup> See 2014 30-Day Post Election Report (Dec. 4, 2014); 2014 Year End Report (Jan. 31, 2015); Termination Report (Apr. 27, 2015). The Committee incurred its debts to the law firm of Gober Hilgers PLLC ("Gober Hilgers") for legal and compliance services and to Tusk Digital for campaign management, marketing, and media consulting. See *id.*

1 The Complaint, filed on October 27, 2014, alleges that BRP violated the Act by  
2 incorporating the name of candidate Reid in its own name. On October 30, the same day that the  
3 Office of General Counsel notified BRP of the Complaint, the Commission's Reports Analysis  
4 Division ("RAD") issued a Request for Additional Information ("RFAI") to BRP regarding the  
5 Committee's name as listed in its Statement of Organization.<sup>9</sup> Noting that the Committee's  
6 name included the name of a candidate, although it did not appear to be an authorized committee  
7 of that candidate, RAD requested that the Committee amend its Statement of Organization to  
8 clarify that it was an authorized committee of a candidate, change its name to exclude a  
9 candidate's name in its name, and/or provide further clarification.<sup>10</sup>

10 BRP responded to the Complaint on November 25, 2014, asserting that it was in "full  
11 compliance" with the Commission's registration requirements for IEOPCs because it had clearly  
12 indicated its non-connected committee status in its Statement of Organization and "submitted its  
13 'IE-Only Letter.'"<sup>11</sup> BRP also asserts that the Committee "is unambiguously named in such a  
14 way that the public is fully informed about who is speaking, what the Committee's motives are  
15 and who is funding the Committee's political speech" and no reasonable person would mistake  
16 the Beat REID PAC for an authorized committee.<sup>12</sup> Further, BRP states that the content of its  
17 political speech is to stop the politicians that "drove this country into Reckless, Endless,

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<sup>9</sup> RFAI to Steve Rebillot, Treasurer, Beat REID PAC (Oct. 30, 2014).

<sup>10</sup> *Id.*

<sup>11</sup> Resp. at 3.

<sup>12</sup> *Id.*

1 Insurmountable Debt,”<sup>13</sup> and argues that any governmental action to silence a political  
2 committee “based on the content of its political speech, including its name,” would violate that  
3 committee’s First Amendment right.<sup>14</sup>

4 The Committee responded to RAD on December 3, 2014, by similarly asserting that it  
5 was in “full compliance” with the Commission’s registration requirements for IEOPCs and that it  
6 had not violated the Act or Commission regulations, and making the same First Amendment  
7 claims.<sup>15</sup>

8 On March 27, 2015, Reid announced that he would not seek re-election to the United  
9 States Senate in 2016. BRP appears to have become dormant following Reid’s announcement; it  
10 stopped posting new content on its social media platforms and deactivated its web-based  
11 fundraising pages.<sup>16</sup> On April 27, 2015, BRP filed a proposed Termination Report.<sup>17</sup>

## 12 B. Legal Analysis

13 The Complaint alleges that the Committee’s use of Senator Reid’s name in its own name  
14 violated 52 U.S.C. § 30102(e)(4).<sup>18</sup> A political committee’s Statement of Organization must

<sup>13</sup> *Id.* at 4 (emphasis in original). While BRP’s social media sites each refer to the Committee as the Beat Reckless, Endless, Insurmountable Debt PAC, the name as listed on the Statement of Organization that the Committee filed with the Commission is Beat REID PAC.

<sup>14</sup> *Id.*

<sup>15</sup> FEC Form 99 (Miscellaneous Text) from Steve Rebillot, Treasurer, Beat REID PAC (Nov. 2, 2014). BRP did not amend its Statement of Organization, in response to either the Complaint or the RFAI.

<sup>16</sup> See <https://www.facebook.com/BEATREIDPAC>; <https://www.beatreidpac.com>; [https://twitter.com/beat\\_reid](https://twitter.com/beat_reid).

<sup>17</sup> BRP disclosed that its debts had been converted to in-kind contributions. See Termination Report at 7-10 (Apr. 27, 2015) and FEC Form 99 (Miscellaneous Text) from Steve Rebillot, Treasurer, Beat REID PAC (Apr. 27, 2015). The Committee’s request to terminate pursuant to 52 U.S.C. § 30103(d) and 11 C.F.R. § 102.3 was denied at this time because of this ongoing enforcement matter. See Letter to Shannon O’Leary, Atty. for BRP (May 11, 2015).

<sup>18</sup> Compl. at 1.

1 include its full name, and an unauthorized political committee "shall not include the name of any  
2 candidate in its name."<sup>19</sup> An unauthorized committee may, however, use a candidate's name in  
3 the title of a special project name or communication if it shows clear opposition to that  
4 candidate.<sup>20</sup>

5 Here, BRP included the name of a candidate — Senator Reid — in its full name, as set  
6 forth in its Statement of Organization and in doing so, appears to have violated 52 U.S.C.  
7 § 30102(e)(4).<sup>21</sup> For several reasons, however, this matter does not warrant the further use of  
8 Commission resources, and we recommend that the Commission exercise its prosecutorial  
9 discretion and dismiss the allegation and issue a caution letter. First, on or about March 27,  
10 2015, Reid, who had previously filed as a candidate for the 2016 election, publicly announced he  
11 was not running for re-election, and thus ceased to be a candidate for purposes of section

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<sup>19</sup> 52 U.S.C. §§ 30102(e)(4), 30103(b)(1); see 11 C.F.R. §§ 102.1(a)(1)(i), 102.14(a).

<sup>20</sup> 11 C.F.R. § 102.14(b)(3). See Advisory Opinion 1995-9 (NewtWatch) at 6 (the Commission advised an unauthorized committee opposed to then-Speaker Newt Gingrich "that the term 'NewtWatch' may not be used as part of the Committee's name," but "the Act and Commission regulations do not prohibit the Committee from using the name 'NewtWatch' as a project name").

<sup>21</sup> As noted above, BRP denies that it violated section 30102(e)(4) because it followed the only guidance the Commission has provided to entities wishing to operate as IEOPC's, *i.e.*, it designated itself an unauthorized committee on its Statement of Organization and filed an "IE-Only Letter." See Resp. at 3, 4. The naming convention of section 30102(e)(4), however, applies to "any political committee which is not an authorized committee" (emphasis added), thus IEOPCs are covered under the plain language of the statute. BRP also presented concerns that the prohibition in section 30102(e)(4) limited its First Amendment rights, but the Commission has addressed this concern in its rulemakings pursuant to section 30102(e)(4) regarding the use of candidate names in the names of unauthorized committee special projects. See 11 C.F.R. § 102.14(b)(3); *Special Fundraising Projects and Other Uses of Candidate Names by Unauthorized Committees, Final Rule and Explanation and Justification*, 59 Fed. Reg. 17,267 (Apr. 12, 1994) ("1994 E&J") (promulgation of 11 C.F.R. § 102.14(b)(3)); *Special Fundraising Projects and Other Uses of Candidate Names by Unauthorized Committees, Final Rule and Explanation and Justification*, 59 Fed. Reg. 31,424 (July 15, 1992) ("1992 E&J") (amending section 102.14(a)). As outlined by the Commission in the Explanation and Justifications, BRP's speech is not silenced by section 30102(e)(4) when the Committee is free to include the name of a candidate in the title of specially designated projects when the title unambiguously demonstrates opposition to that candidate and is, moreover, free to discuss candidates by name in the body of any and all communications, as it has done in its website, Facebook Page, and Twitter account. See 11 C.F.R. § 102.14(b)(3); 1994 E&J at 17,268; 1992 E&J at 31,425.

30102(e)(4).<sup>22</sup> Accordingly, BRP's violation of section 30102(e)(4) ceased at that time. Second, BRP has engaged in limited activity since its organization in October 2014. The Committee raised little money, made no independent expenditures opposing Reid, issued no communications beyond the social media activity described herein, apparently became dormant after Reid announced that he was not running for re-election, and has requested to terminate.<sup>23</sup>

Therefore, we recommend that the Commission exercise its prosecutorial discretion and dismiss the allegation that Beat REID PAC and Steve Rebillot in his official capacity as treasurer violated 52 U.S.C. § 30102(e)(4), close the file, and send a cautionary letter.<sup>24</sup>

### III. RECOMMENDATIONS

1. Dismiss the allegation that Beat REID PAC and Steve Rebillot in his official capacity as treasurer violated 52 U.S.C. § 30102(e)(4) and send a cautionary letter.
2. Approve the attached Factual and Legal Analysis.
3. Approve the appropriate letter.

<sup>22</sup> A candidate ceases to be a candidate for purposes of the naming prohibition in 52 U.S.C. § 30102(e)(4) and 11 C.F.R. § 102.14(a) when the candidate announces his or her withdrawal from that election. *See* Advisory Op. 1993-22 (Roe) (Commission determined that the naming prohibition did not apply to a non-connected multicandidate committee called the Roe Political Committee ("RPC") because Congressman Roe announced that he was not running for re-election a year before RPC registered with the Commission, and was therefore no longer a federal candidate); Advisory Op. 1988-41 (Stratton) (Stratton considered a congressional candidate until July 18, 1988, the date he announced his retirement for health reasons and his "status as a candidate in the 1988 congressional election cycle terminated").

<sup>23</sup> *Cf.* MUR 6213 (DUMPREID PAC) (Commission exercised its prosecutorial discretion to dismiss a violation of the prohibition on the use of a candidate's name in the name of an unauthorized committee and sent a cautionary letter based partly on the PAC's filing of an amended Statement of Organization, changing the PAC's official name).

<sup>24</sup> *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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